



13 SEP 2006

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|--|---|----------|
| In re Application of                         | : |          |
| NGUYEN et al.                                | : |          |
| Application No.: 10/561,749                  | : | DECISION |
| PCT No.: PCT/GB2004/002267                   | : |          |
| Int. Filing Date: 28 May 2004                | : |          |
| Priority Date: 26 June 2003                  | : |          |
| Attorney Docket No.: 102792-133 (11256P3 US) | : |          |
| For: IMPROVED DISPENSING DEVICE              | : |          |

This is a decision on applicants' petition under 37 CFR 1.47(a) filed 22 February 2006 in the United States Patent and Trademark Office (USPTO).

#### **BACKGROUND**

On 28 May 2004, applicants filed international application PCT/GB2004/002267, which designated the United States and claimed a priority date of 26 June 2003. A copy of the international application was communicated from the International Bureau to the USPTO on 06 January 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 27 December 2005 (26 December 2005 being a Federal holiday).

On 21 December 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 22 February 2006, applicants filed the instant petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors, a declaration of facts by Andrew N. Parfomak, a copy of a letter from Mr. Parfomak to non-signing inventor Lamson Nguyen, and a copy of a Federal Express receipt.

#### **DISCUSSION**

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing inventor; and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Items (1), (3), and (4) have been satisfied.

Item (2) has not been satisfied. A communication was sent to Mr. Nguyen's last known address on 27 January 2006. The package was signed for by a "G. Nguyen" on 28 January 2006. As of the date of the filing of the petition, Mr. Nguyen had not responded to the 27 January 2006 communication. However, there does not appear to have been any follow-up, either by letter or by phone, with Mr. Nguyen regarding the communication. Mr. Nguyen could have received the documents and simply forgotten about them. Follow-up to the 27 January 2006 communication is required to establish a refusal to sign.

### **CONCLUSION**

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. **Failure to timely file the proper response will result in abandonment of this application.** Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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